

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CRIMINAL NO. 1:05CR257-1

UNITED STATES OF AMERICA

VS.

NICHOLAS AVILIA PADRON

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ORDER

THIS MATTER is before the Court on a letter addressed to the Clerk of Court, dated October 15, 2008, which the Court construes as a *pro se* motion for return of seized property. **Defendant's Motion, filed October 24, 2008.**

Defendant was arrested in October 2005, on drug charges to which he subsequently pled guilty and was sentenced to 63 months imprisonment. **Warrants for Arrest, filed October 17, 2005; Judgment in a Criminal Case, filed September 5, 2006, at 1.** In the instant motion, he claims that, on the day of his arrest, the Government wrongfully seized his house, eight vehicles, various pieces of jewelry, and cash and checks in the amount of \$8,000.00. **Motion, *supra*, at 1.**

The Court's review of the record indicates that no items were listed for forfeiture in either the criminal complaint or the indictment. **Criminal Complaint, filed October 17, 2005; Indictment, filed October 24, 2005.** Defendant's plea agreement states that certain items belonging to Defendant were destined for forfeiture and references a list of these items in "Exhibit 1." **Plea Agreement, filed December 19, 2005, at 8.** In fact, no such exhibit is appended to the plea agreement. Moreover, no forfeiture proceedings appear to have taken place with respect to Defendant's property.

Because there is insufficient information in the record to determine the merits of Defendant's *pro se* motion, the Government will be directed to respond to the issues raised therein.

IT IS, THEREFORE, ORDERED that the Government file response to Defendant's *pro se* motion filed October 24, 2008, within **15 DAYS** from entry of this Order.

Signed: October 30, 2008



Lacy H. Thornburg
United States District Judge

